IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION.

CRIMINAL WRIT PETITION NO. 1469 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Shri Ujwal R. Agandsurve for the petitioner.

Shri A.S. Gadkari, A.P.P.for the State.

CORAM : A.M. KHANWILKAR, J.

DATE : 09.09.2004

P.C.

. Heard Counsel for the parties.

2. The first grievance made before this Court is that the authorities below have relied on statement to establish the fact that petitioner was indulging in terrorising the persons staying in the locality. However, those

statements are stereo typed statements and will have to be discarded. However, no such grievance was made on behalf of the petitioner either in response to the show cause notice or during the hearing before the first authority or for that matter before the appellate authority. The petitioner cannot be permitted to raise new issues for the first time before this Court in writ jurisdiction, especially of the nature that the statements are got up or fabricated documents.

3. The next argument canvassed before this Court is that the basis on which, perhaps, the action was instituted against the petitioner, is that, no witnesses were coming forward to give evidence. It is submitted

that it is matter of record that three offences have already been registered in respect of which investigation is completed and charge-sheet has also been filed before the appropriate Court. The argument is that if investigation was proceeded in those case and charge-sheet has been filed it pre supposes that the witnesses have volunteered to give evidence. This submission over looks the basis on which action of externment was initiated against the petitioner. Action is not only in relation to the criminal cases which were already registered but the subsequent incidents which are referred to in the show cause notice mentioning the fact that the persons were afraid of registering the complaint against the petitioner. It is on that

basis the first authority has eventually passed the order invoking section 56(1)(a) and (b) of Bombay Police Act. That decision recorded by the first authority, has been confirmed by the appellate authority which was the final fact finding authority. Viewed in this perspective, no interference is warranted, petition dismissed.